

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 15, 2005

IN RE:

PETITION FOR ENFORCEMENT OF INTERCONNECTION  
AGREEMENT BETWEEN BELL SOUTH  
TELECOMMUNICATIONS, INC. AND  
NUVOX COMMUNICATIONS, INC.

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DOCKET NO.  
04-00133

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ORDER GRANTING NUVOX COMMUNICATIONS, INC.'S MOTION TO  
RESCHEDULE DATE FOR ORAL ARGUMENT

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This matter came before the Hearing Officer upon the filing of *NuVox Communications, Inc.'s Motion to Reschedule Date for Oral Argument* ("Motion") by NuVox Communications, Inc. ("NuVox") on April 13, 2005.

At a status conference held on February 4, 2005, NuVox and BellSouth Telecommunications, Inc. ("BellSouth") agreed to a two-part process for completion of this docket. In the first part, the legal issues raised would be briefed by the parties and decided by the voting panel assigned to this docket. A briefing schedule was adopted for those legal issues; however, no date was set for the oral argument on the briefs.<sup>1</sup> Briefing was completed on March 21, 2005.

On Friday, April 8, 2005, the Authority issued an agenda for the regularly scheduled Authority Conference scheduled for April 18, 2005, which included the oral argument pending in this docket. On Monday, April 11, 2005, the Hearing Officer issued a separate *Notice of Oral*

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<sup>1</sup> See *Order Establishing Briefing Schedule* (March 17, 2005)

*Argument.* In its *Motion*, NuVox states that, as of the filing of the *Motion*, its counsel had not received service of the *Notice of Oral Argument*.

NuVox further states that it and its regional counsel have a preexisting commitment in Montgomery, Alabama on April 18, 2005 to prepare for an arbitration hearing before the Alabama Public Service Commission that begins on April 19, 2005. NuVox requests a continuance until the next regularly scheduled Authority Conference, currently scheduled for May 2, 2005, or until the earliest available date that is acceptable to the Authority and that allows both parties to be represented by their counsel of choice.<sup>2</sup>

BellSouth filed *BellSouth Telecommunications, Inc.'s Response in Opposition to NuVox Communication, Inc.'s Motion to Reschedule Date for Oral Argument* ("Response") on April 14, 2005. In its *Response*, BellSouth opposes the *Motion* and asserts that a delay in the oral argument will result in a delay of the audit that is at issue in this docket. BellSouth suggests alternatives that would allow the oral argument to go forward as scheduled, such as another lawyer handling the oral argument for NuVox or counsel traveling from Tennessee to Alabama on April 18, 2005. BellSouth requests that, if the *Motion* is granted, the oral argument not be rescheduled any later than Monday, May 2, 2005.

TRA Rule 1220-1-2.07 governs continuances and rescheduling. In determining whether to grant a continuance, the Hearing Officer or Authority may consider the relative convenience of the parties, the Authority's calendar for hearings and the necessity for the expeditious disposition of the case.<sup>3</sup>

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<sup>2</sup> The Hearing Officer notes that although a party in a contested case may be advised and represented by a licensed attorney, out-of-state counsel must comply with Tenn Comp R & Regs 1220-1-2- 04(7) in order to appear before the Authority. To date, no applications to appear *pro hac vice* have been filed in this docket.

<sup>3</sup> Tenn Comp R & Regs 1220-1-2- 07(4)

Applying this standard, the Hearing Officer finds that because of NuVox's conflict on April 18, 2005, its request for a continuance should be granted. The next Authority Conference is scheduled for May 2, 2005. Therefore, the oral argument in this matter will be rescheduled for Monday, May 2, 2005, during the regularly scheduled Authority Conference beginning at 1:00 p.m. (central).

**IT IS THEREFORE ORDERED THAT:**

*NuVox Communications, Inc.'s Motion to Reschedule Date for Oral Argument* is granted and the oral argument previously scheduled for Monday, April 18, 2005 shall be continued to Monday, May 2, 2005 during the regularly scheduled Authority Conference beginning at 1:00 p.m. (central).

  
Jean A. Stone, Counsel  
as Hearing Officer